

Crl.A. 124/1999  
BEFORE  
HON'BLE MR JUSTICE P.G.AGARWAL

Heard Mr.B.M.Choudhury, learned counsel for the appellant and the learned P.P., Assam.

This appeal has been preferred against the judgment and order dated 19.04.1999 passed by the learned Sessions Judge, Kamrup in Special Case No. 7 of 1995 convicting the accused appellant under Section 7(1)(a)(ii) of the Essential Commodities Act, 1955 and sentencing him to undergo simple imprisonment till rising of the Court and to pay fine of Rs.1000/-, in default in payment of fine, to undergo imprisonment for two months.

The appellant is a dealer under the Assam Public Distribution of Articles Order, 1982. His shop was inspected by the Inspector of Food and Civil Supplies on 07.01.95 and it was found that the accused has failed to maintain proper stock register. He also failed to display the stock position as required under the Assam Public Distribution of Articles Order, 1982 (for short 'Order'). The trial Court, on appreciation of materials on record, held the accused guilty for violation of the provisions of the said Order and accordingly convicted him under Section 7(1)(a)(ii) of the Essential Commodities Act, 1955 and sentenced him as stated above. Hence, the present appeal.

So far the charge is concerned, the evidence of the PW-1 Kinaram Das is supported by the evidence of PW-2 and PW-3, the two other officers of the Supply Department. The factum of accused appellant being the owner of the shop and business and the visit by the Inspector of Food and Civil Supply are admitted by the accused appellant. The Inspector of Food and Civil Supply found shortage of 6 Kgs of Superfine Rice and excess of 60 Liters of S.K.Oil. We find that the learned trial Court has relied on the evidence of the witnesses and passed the order of conviction for contravention of the Order. As such, the sentence imposed on the accused appellant is in accordance with law and, therefore, needs no interference.

So far the sentence is concerned, the accused has already undergone the simple imprisonment till rising of the Court. Learned counsel also submitted that the sentence may be modified and the accused may be released on probation. This submission has been made on the ground that the conviction may affect the license of the shop premises since the accused maintain the livelihood of the family by running the fair price shop.

The offence relates to 1995 and long 12 years have elapsed as such we do not propose to modify the sentence as imposed by the Court below. However, we provide that the conviction will not entail penal consequence of cancellation of license under Section 12 of the Essential Commodities Act. The petitioner is granted 5(five) days time to deposit the fine, if already not deposited.

The appeal stands disposed of with the above observations.